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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fifth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 1369th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 26 August 1999, at 10.40 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (continued)

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the fourth to eighth periodic reports of the Dominican Republic

* The summary record of the first part (closed) of the meeting appears as document CERD/C/SR.1369.

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CONTENTS (continued)

ORGANIZATIONAL AND OTHER MATTERS (continued)

Draft general recommendation concerning demographic information (continued)

Revision of the Committee's general guidelines regarding the form and content of reports to be submitted by States parties under article 9, paragraph 1, of the Convention (continued)

The public part of the meeting was called to order at 10.40 a.m.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 9) (continued) (CERD/C/55/Misc.38/Rev.2)

1. The CHAIRMAN invited the Committee to resume its consideration of the draft resolution on the World Conference against Racism (CERD/C/55/Misc.38/Rev.2), prepared by the contact group which had attended the sessional open-ended working group of the Commission on Human Rights on the preparations for the World Conference.

Paragraph 7

2. Mr. BANTON, noting that the Government of South Africa had offered to host the World Conference and in deference to the Government's efforts to create a non-racist society, suggested adding two items at the beginning of the list in paragraph 7, namely "processes of racial reconciliation" and "racial discrimination against indigenous peoples".

3. The first three topics in the original list were very general in nature: he suggested that they should be deleted.

4. In answer to a question by the CHAIRMAN, Mr. GARVALOV said that, as far as he was aware, South Africa had made a firm offer to host the World Conference, although that would of course need to be confirmed by the General Assembly.

5. Mr. SHERIFIS supported Mr. Banton's proposal.

6. Mr. van BOVEN said that, to his knowledge, the financing arrangements for the World Conference were not yet finalized, which meant that South Africa's offer was still only conditional.

7. The CHAIRMAN said that the additional topics suggested would be of interest even if the World Conference was not held in South Africa.

8. Mr. GARVALOV, supported by Mr. SHERIFIS and Mr. SHAHI, said he wished to retain the third topic in the original list, which read: "Racism, racial discrimination, xenophobia and related intolerance, challenge to peace, human rights, including the right to life, public order and the rule of law". Racism and racial discrimination in particular, formed the very core of the Committee's mandate.

9. Mr. RECHETOV, said he had misgivings about the use of the term "public order" in the third subparagraph. It expressed a very profound legal concept that had nothing directly to do with stability or security in a society, but might be misinterpreted by non-jurists.

10. After a brief discussion in which the CHAIRMAN, Mr. van BOVEN, Mr. RECHETOV and Mr. SHERIFIS, took part, and following an informal show of

hands, the CHAIRMAN suggested replacing the words "public order" in the third subparagraph by the words "human dignity, stability," before the phrase "and the rule of law".

11. It was so decided.

12. Mr. DIACONU, recalling that there had been a suggestion to delete the sixth subparagraph on educational measures, proposed, instead, that it should be recast to read: "Educational measures for all segments of the population in the spirit of the elimination of all forms of racial discrimination and intolerance".

13. Mr. SHERIFIS proposed retaining at least the reference to the Committee's General Recommendation XIII, if not the reference to the joint working paper on article 7 prepared by two members of the Committee and two members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

14. Mr. GARVALOV said that he failed to understand why the members of the Committee were consistently reluctant to include any reference to the joint working paper.

15. Mr. BANTON, supported by Mr. SHERIFIS, proposed adding the text of the joint working paper in question to the annex of the draft annual report.

16. It was so decided.

17. The CHAIRMAN said he took it that the Committee wished to adopt paragraph 7 as amended by Mr. Diaconu and Mr. Sherifis.

18. Paragraph 7, as amended, was adopted.

Paragraph 8

19. Mr. RECHETOV proposed replacing the former name of the Sub-Commission by its new name, Sub-Commission on the Promotion and Protection of Human Rights.

20. It was so decided.

21. Mr. van BOVEN said that it was the subjects of the four working papers referred to in paragraph 8 that were of interest, not their authors, whose names he would delete.

22. Mr. GARVALOV suggested retaining the four titles, followed by the document symbols in parentheses.

23. It was so decided.

24. Paragraph 8, as amended, was adopted.

Paragraph 9

25. The CHAIRMAN, speaking in his personal capacity, said that it was sufficient simply to welcome the contributions by regional organizations in the holding of past World Conferences, without singling out the involvement of two of them in the preparations for the forthcoming Conference.

26. Mr. YUTZIS said that he would agree as a general rule, but that the two organizations mentioned had been particularly active in the preparations and had been mentioned in other United Nations documents in that context.

27. Mr. van BOVEN said that he supported the Chairman, especially since relations with the regional organizations were the concern not of the Committee but rather of the Commission on Human Rights and the Preparatory Committee for the Conference.

28. The CHAIRMAN said that the entire paragraph could consequently be deleted.

29. Paragraph 9 was deleted.

Paragraphs 10 and 11

30. Paragraphs 10 and 11 were deleted.

Paragraph 12

31. The CHAIRMAN proposed deleting the phrase "and its Chairman [and Contact Group]," after the words "Human Rights,", since they were part of the Committee and did not have to be specifically mentioned.

32. Paragraph 12, as amended, was adopted.

Paragraph 13

33. Paragraph 13 was deleted.

Preamble and paragraphs 1 and 2

34. The CHAIRMAN said that he took it the Committee wished, as proposed at the previous meeting, to delete paragraphs 1 and 2 of the draft text, whose operative part would then begin with what was now paragraph 3, and to have Mr. Garvalov draft a new preambular part.

35. The preamble was adopted subject to redrafting, and paragraphs 1 and 2 were deleted.

36. The draft resolution as a whole, as amended and subject to agreed redrafting, was adopted.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the fourth to eighth periodic reports of the Dominican Republic (CERD/C/55/Misc.53/Rev.2, future CERD/C/55/CRP.1/Add.23)

37. The CHAIRMAN invited the Committee to consider the draft concluding observations paragraph by paragraph.

Paragraphs 1, 2 and 3

38. Paragraphs 1, 2 and 3 were adopted.

Paragraph 4

39. Mr. SHERIFIS proposed that the words "with interest" should be deleted.

40. Paragraph 4, as amended, was adopted.

Paragraph 5

41. The CHAIRMAN and Mr. VALENCIA RODRIGUEZ (Country Rapporteur) expressed doubts about the words "in extreme cases".

42. Mr. RECHETOV said he felt that the words following "article 2 of the Convention" to the end of the first sentence could be deleted.

43. Mr. van BOVEN said that, in that case, the second sentence, too, should be deleted.

44. Mr. DIACONU said he was in favour of retaining the text.

45. Mr. van BOVEN, supported by Mr. SHERIFIS, proposed, as an alternative, the deletion of the entire second sentence and of the words "in extreme cases" from the first.

46. It was so agreed.

47. Paragraph 5, as amended, was adopted.

Paragraph 6

48. Mrs. ZOU Dexi said that the first sentence alone should suffice. Following an observation by the CHAIRMAN, she agreed that there was no reason for the Committee to invoke the views of other human rights bodies.

49. Mr. SHERIFIS agreed, adding that the word "particularly" in the first sentence should be replaced by "also".

50. Mr. van BOVEN proposed that the first sentence, with the amendment proposed by Mr. Sherifis, should be retained and that the remaining text should consist solely of:

"The Committee expressed concern about the situation of Haitian illegal workers, in particular women and their children, who are often denied the most basic economic and social rights, such as housing, education and health services."

51. Paragraph 6, as amended, was adopted subject to minor editorial changes.

Paragraph 7

52. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) recalled that the Dominican authorities had denied the existence of the racial prejudices referred to in the paragraph, although documentation before the Committee suggested otherwise.

53. Mr. SHERIFIS said he had difficulty with the term "darker-skinned Dominicans". He also felt that paragraph 7 could be combined with paragraph 6.

54. Mr. RECHETOV said he opposed such a combination, since paragraph 6 as it stood dealt specifically with social and economic conditions.

55. Following a brief discussion in which Mr. SHAHI, Ms. McDOUGALL, Mr. VALENCIA RODRIGUEZ (Country Rapporteur) and the CHAIRMAN took part, the CHAIRMAN said he took it that the Committee agreed to adopt paragraph 7 as it stood.

56. Paragraph 7 was adopted.

Paragraphs 8 and 9

57. Paragraphs 8 and 9 were adopted.

Paragraph 10

58. Mr. RECHETOV proposed that the word "fully" should be deleted.

59. The CHAIRMAN further suggested that the words "in the current process of reform of the Penal Code" should be placed between commas, and said he took it that the Committee agreed to those amendments.

60. Paragraph 10, as amended, was adopted.

Paragraph 11

61. Mr. GARVALOV said the Committee must bear in mind the wording of paragraph 6, which referred to Haitians living and working illegally in the country. If the Committee's intention was to refer in paragraph 11 to both legal and illegal immigrants in the Dominican Republic, the words "both legal and illegal" should be inserted after the words "Haitian immigrants".

62. The CHAIRMAN, speaking in his capacity as a member of the Committee, expressed some doubt as to whether it was advisable to put illegal immigrants on the same footing as legal immigrants.

63. Mr. GARVALOV said he shared the Chairman's doubts, not only about paragraph 11, but also about paragraph 6. By stating that illegal immigrants were entitled to certain rights, the Committee ran the risk of encouraging illegal immigration.

64. Mr. van BOVEN proposed that the words "both documented and undocumented" should be inserted after the word "immigrants", which would avoid the use of the term "illegal".

65. The CHAIRMAN, speaking in his personal capacity, expressed doubts as to whether any country extended the same legal rights to both documented and undocumented immigrants.

66. Mr. van BOVEN replied that essential health services and education could, for instance, be provided to all, regardless of whether a person was documented. In his country, a recent law severely restricted the rights of undocumented immigrants, and as a result some were denied those services. Clearly, the situation would be still more difficult in a poorer country such as the Dominican Republic. He contended that very basic human rights applied to all people.

67. The CHAIRMAN, speaking as a member of the Committee, maintained that, to his knowledge, there was no country in the world that extended the same legal rights to those two categories of immigrants, and the Committee could therefore not justifiably expect the Dominican Republic to do so.

68. Mr. DIACONU suggested that "Haitian immigrants" should be replaced by "persons of Haitian origin". The issue of citizenship should not be addressed directly.

69. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) supported Mr. Diaconu's proposal, which had the merit of bringing paragraph 11 into line with the terms used in paragraph 7.

70. In reply to a question by the CHAIRMAN, Mr. VALENCIA RODRIGUEZ (Country Rapporteur) explained that "bateyes" was a Dominican term which referred to the shanty towns in which many Haitian workers lived, in extremely difficult conditions.

71. The CHAIRMAN suggested that the words "shanty towns" should be inserted in brackets after "bateyes". He took it that paragraph 11, as amended by Mr. Diaconu, could be adopted with that additional change.

72. Paragraph 11, as amended, was adopted.

Paragraph 12

73. Paragraph 12 was adopted.

Paragraph 13

74. Mr. RECHETOV proposed the deletion of the word "full" in the first sentence.

75. Mr. GARVALOV suggested the addition, after the word "understanding", of the words "and tolerance", as being more consistent with the wording of article 7.

76. Paragraph 13, as amended, was adopted.

Paragraph 14

77. Paragraph 14 was adopted.

Paragraph 15

78. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) suggested that the words "of the proposal of a social" should be replaced by "of the proposed social".

79. Paragraph 15, as amended, was adopted.

Paragraph 16

80. Paragraph 16 was adopted.

Paragraphs 17 and 18

81. Mr. GARVALOV suggested that paragraphs 17 and 18 could be combined, as similar paragraphs had been in earlier concluding observations.

82. The CHAIRMAN said he was opposed to combining the two paragraphs, as the first had been unanimously accepted while the second had not.

83. Paragraphs 17 and 18 were adopted.

Paragraph 19

84. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that many Committee members had noted that the periodic report under review had been incomplete, and that it was important to request a comprehensive and complete report from the State party.

85. Mr. DIACONU, supported by Mr. SHERIFIS, suggested deleting the last part of the paragraph, following the words "concluding observations". The Committee had never before in its concluding observations requested that a State party take into account the points raised during consideration of its report.

86. Mr. RECHETOV said he felt that the recommendation that the State party should submit a core document should be deleted. It was to his recollection the first time the Committee had made such a request in its concluding observations. There were larger and more wealthy countries which had never submitted a core document.

87. The CHAIRMAN invited the Country Rapporteur to read out paragraph 19, as amended.

88. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the new version would read: "The Committee recommends that the next periodic report of the State party, due on 24 June 2000, should be a comprehensive one, following the reporting guidelines and take account of the points raised in these concluding observations."

89. Paragraph 19, as amended, was adopted.

90. The draft concluding observations concerning the fourth to eighth periodic reports of the Dominican Republic as a whole, as amended, were adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Draft general recommendation concerning demographic information (continued) (CERD/C/55/Misc.34/Rev.2)

91. The CHAIRMAN invited the Committee to consider the revised draft recommendation (CERD/C/55/Misc.34/Rev.2) prepared by Mr. Diaconu.

92. Mr. SHAHI said he had difficulty with the reference, in the last two lines of paragraph 2, to a language or culture different from the majority or from other groups. Such wording might appear to be exceeding the scope of the Convention's provisions, and should be clarified.

93. Mr. DIACONU said it was important that certain criteria should be uniformly applied to all groups, especially since there was evidence that some countries' authorities recognized certain groups but not others. For example, mention had been made, at a recent meeting, of Germany, where Danes and Sorbs were recognized groups but Turks and Roma were not.

94. Referring to an observation by the CHAIRMAN, he said that the right of all persons to decide to what group they wished to belong was consistent with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. With regard to Mr. Shahi's comment, the text referred to language and culture because indigenous peoples saw them as the two key features of their identity.

95. He hoped that a decision on the draft could be taken at the current session - by a show of hands, if necessary.

96. Following an observation by Mrs. ZOU Deci, the CHAIRMAN said that, although he appreciated the concern voiced by Mr. Diaconu, time constraints obliged the Committee to consider first the remaining draft concluding observations. He suggested, therefore, that further discussion of the draft general recommendation concerning demographic information should be held in abeyance.

97. It was so agreed.

Revision of the Committee's general guidelines regarding the form and content of reports to be submitted by States parties under article 9, paragraph 1 of the Convention (continued) (CERD/C/70/Rev.3; HR/PUB/91/1(Rev.1))

Amendment proposed by Ms. McDougall (CERD/C/55/Misc.42)

98. Ms. McDOUGALL said the draft before the Committee (CERD/C/55/Misc.42) was a proposed amendment to paragraph 8 of the general guidelines. Paragraph 8 had already been the subject of an amendment put forward by Mr. Banton and adopted by the Committee. She proposed that the text under consideration, which introduced the idea of gender-disaggregated data, should be inserted between paragraph 8, which dealt with general matters, and the previous amendment, which addressed the more specific question of the situation of vulnerable groups.

99. The CHAIRMAN, speaking in his personal capacity, said that, as far as he had ascertained, there was as yet no generally accepted definition of the term "gender".

100. Mr. van BOVEN said that the term was explained in an annex to the final report of the Beijing Fourth World Conference on Women. There was also a definition in the 1998 Rome Statute of the International Criminal Court, although he acknowledged that it was not a very clear one. If the use of the word "gender" posed a problem, perhaps the Committee could use the words "men and women" in its place.

101. He had always been in favour of receiving gender-disaggregated data, as he believed that women, who represented half the world's population, were often subjected to double or even triple discrimination when they were at the same time members of ethnic minorities and, for example, elderly or disabled.

102. The CHAIRMAN said that everyone was agreed on the need, in general, to defend women's rights. The matter at hand was how to ensure that the substance of the amendment was consistent with the provisions of the Convention.

103. Mr. DIACONU pointed out that the Committee had already added a text to the guidelines after paragraph 8. If it added yet another, there would be three paragraphs, which would be repetitive and could excessively complicate the task of those drafting reports. To avoid repetition, he suggested that the last sentence of the text submitted by Ms. McDougall should be inserted as the penultimate sentence in the text submitted by Mr. Banton, which had previously been adopted.

104. Ms. McDOUGALL said she felt that both paragraphs were helpful in clarifying the kind of information the Committee required in periodic reports. The paragraph submitted by Mr. Banton covered vulnerable groups, and its last sentence referred to "such persons" in that context. The insertion proposed by Mr. Diaconu would be unacceptable, implying as it would that all women were members of a vulnerable group. The draft currently under consideration was broader in scope, as it covered all information, disaggregated by gender. Perhaps it would be preferable if the two paragraphs could be harmonized.

105. The concept of gender was defined in a report by the Secretary-General of the United Nations on integrating the gender perspective into the work of the United Nations treaty bodies, a document requested by the meeting of the persons chairing the human rights treaty bodies in 1997. She read out an excerpt of the definition for the benefit of the Committee.

106. The CHAIRMAN, thanking Ms. McDougall for the clarification, explained that he had been aware of the report but had not understood that the definition had been pronounced by the Secretary-General. He wondered whether it had been accepted by the Member States. Speaking in his capacity as a member of the Committee, he also asked whether the text should refer in the second sentence to "each article". Some, such as article 4, did not lend themselves to gender-disaggregated data.

107. Mr. BANTON suggested that he could try before the next meeting to find a formulation for both his and Ms. McDougall's amendments to paragraph 8 which would reflect the opinions expressed by the Committee members.

108. The CHAIRMAN suggested that Mr. Banton should work in consultation with all Committee members to find an acceptable solution.

109. It was so agreed.

The meeting rose at 12.40 p.m.